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OFFICE OF PETITIONS

In re Application of
Fleury et al.
Application Number: 09/083180
Filing Date: 05/22/1998
Attorney Docket Number:
612.36255X00

DECISION ON PETITION

This is a decision on the petition filed on July 22, 2008, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on August 10, 1998, for failure to timely respond to the Notice to File Missing Parts of Application mailed on June 9, 1998, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on July 9, 1999.

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The petition filed on January 25, 2008, was dismissed February 13, 2008. The renewed petition filed on March 13, 2008, was dismissed on June 20, 2008.

Receipt of the response to the Notice to File Missing Parts of Application is acknowledged.

The application is referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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